Mergers Under Eec Competition Law

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Competition Law Richard Whish 2012-01-12 The authors describes the potential scope and application of the various legal provisions which regulate competition in the UK. This book also examines the results of the convergence of UK and EC law with regard to competition in business.
Merger Control in the European Union Edurne Navarro Varona 2005 This second edition provides an exhaustive analysis of the European Community rules relating to merger control, including the new EC Merger Regulation 139/2004 of 20 January 2004 which entered into force on 1 May 2004 and the latest interpretive notices adopted by the European Commission. The book draws upon the authors' detailed and practical knowledge of the subject as officials at DG Competition and practitioners specialising in this field, and will be updated through a companion website.
The Regulation of Transnational Mergers in International and European Law Dimitris Liakopoulos 2009-12-07 The major problem associated with the regulation of transnational mergers, which affect several national markets, is the allocation of jurisdiction. Each country concerned may wish to exert jurisdiction and apply its national competition law to regulate the anti-competitive effects a merger may have in its territory. However, this approach may lead to risks of inconsistent decisions regarding the legality of mergers. Indeed, the national competition laws applied by the regulating authorities may diverge in several aspects, which raise the likelihood of inconsistency. Therefore it is desirable to opt for regulatory approaches which are more sensitive to the transnational nature of mergers and which allow cooperation between competition authorities. A possible solution may be bilateral cooperation agreements through which two countries coordinate the enforcement activities of their national competition authorities. However, the benefits of these agreements are enjoyed only by the signatory parties. The sole reliance upon bilateral agreements does not appear to be the optimal regulatory approach towards transnational mergers.
EU Competition Law Volume II: Mergers and Acquisitions Jones, Christopher 2021-12-14 This book is a Claeys and Casteels title, now formally part of Edward Elgar Publishing. With extensive updating in the decade since the publication of the second edition, and written by the key Commission and European Court officials in this area, as well as leading practitioners, the third edition of this unique title provides meticulous and exhaustive coverage of EU Merger Law.
The goals and scope of European merger regulation. Acquisition of minority shareholderships Ziya Baghirzade 2014-08-06 Academic Paper from the year 2014 in the subject Business economics - Law, grade: 2.0, Free University of Berlin, course: Master degree, language: English, abstract: The Merger Regulation as it stands only applies to transactions resulting in a lasting change of control. Economic theory and the Commission's experience suggest that non-controlling minority shareholdings may also in certain instances cause anticompetitive harm. The financial incentives and the influence on the target resulting from such minority stakes can raise competition concerns based on the same theories of harm as pursued under merger rules, namely unilateral or coordinated effects or input foreclosure. Unlike other competition authorities both inside and outside the EU (such as Germany, the United Kingdom, or the United States) the Commission currently has no opportunity to address such concerns where they are caused only by the acquisition of minority participations. The European Commission is looking forward to review and potentially revise its rules for reviewing minority share acquisitions under EU competition law. The European Commission is considering amending the EUMR to allow it to review certain acquisitions of non-controlling minority shareholdings. Under the current EUMR regime, the Commission can only review the acquisition of a minority shareholding and possibly prohibit it ex ante where it confers control. Control means the possibility of exercising decisive influence on an undertaking on the basis of rights, contracts or any other means (Article 3(2) EUMR). Hence, the acquisition of a minority shareholding does not fall under the scope of the EUMR and under the Commission’s jurisdiction unless it enables the minority shareholder to determine the strategic commercial behavior of the target. While in some instances competition problems caused by non-controlling minority participations might be tackled by the antitrust rules of Article 101 or 102 TFEU, these provisions would not seem to deal with all cases in which non-controlling minority shareholdings may cause competitive harm. In particular Article 101 only applies where there is an agreement between the parties which could be qualified as having the effect of restricting competition.
The Economic Assessment of Mergers Under European Competition Law Daniel Gore 2013-04-25 Provides a clear, concise and practical overview of the key economic techniques and evidence employed in European merger control.
Transatlantic Merger Cases Charles Smitherman 2007 Despite the introduction of the U.S. - EC merger review co-operation initiative in the early nineties, transatlantic mergers remain a minefield for all those involved. For the parties there is the lack of legal certainty and its attendant costs and reputation; for the regulators there is the political toll of reconciling conflicting competition policies. Charles Smitherman reviews merger regulation frameworks on both sides of the Atlantic. The author identifies areas of substantive and procedural differences as they exist today and explores the viability of convergence to aid the efficiency of the merger process through bilateral and domestic enhancements. Throughout the work the emphasis is placed on pragmatic solutions rather than those of academic and oft-unobtainable nature. The backbone of the work is made up of the analysis of eight of the biggest U.S. - EC merger cases between 2000 and 2004.
The Modernisation of EC Antitrust Law Rein Wesseling 2000-07 In light of criticism in recent years of the European Community's competition law, Amsterdam lawyer Wesseling tries to clarify the current challenges to the policy by examining the origins of the competition law system. He begins by tracing the policy's development from the European Economic Community, established in 1958, and the European Union of today. Then he addresses the pertinent objectives, the institutional framework, the division of jurisdiction between the Community and the Member States, the decentralized enforcement of Community law, and other issues. His conclusions differ considerably from the Commission's recent white paper. Distributed in the US by ISBS. c. Book News Inc.
A merger that did not come to pass Andrea Daniel 2009-07-13 Essay from the year 2009 in the subject Politics - International Politics - Topic: European Union, grade: A-Grade with distinction, South Bank University London (Faculty for Art and Human Sciences), course: Postgraduate Course on European Policy, language: English, abstract: This essay examines the theoretical background and the practical application of the EU's “antitrust policy”. As mergers are one way for firms to gain a “dominant position” in the market, the Commissionapplies the merger regulation to control such developments. The operation of this policy is analysed with the case study of a prohibited merger of “Ryan Air” and “Aer Lingus”. The case also shows the high degree of legislative and executive powers the EU-institutions have gained in the significant economic area of competition policy. Although seemingly of purely economic purposes, EU competition policy serves “integrative” purposes too. “EU-Integration” can be defined as the EU-Member States voluntarily foregoing their power to formulate only national political and legal measures. Instead they formulate common policies which are determined in a coop-erative process of decision making. Cooperation can either take place in an intergovernmental framework or by transferring national sovereignty to the EU-institutions with the subsequent subjugation of national law under EU Law. Since the Treaty of Rome in 1957 expressed the determination of the European Economic Community’s Member States to build an “ever closer union”, economic integration parented EU-integration. With the new Treaties from the Single European Act onwards other than economic policies were added to the EU’s agenda, e.g. cultural policy, foreign or security policy, but economic integration stayed a top priority. The EU’s success is still believed to depend on its economic success and its ability to let the majority of the EU’s citizens profit from it. Economic failure could undermine people’s acceptance of the renunciation of national political independence. Therefore the Commission strives to ensure the Single Market’s success, among other things by applying a competition policy with merger controls.
Promoting Competition in Innovation Through Merger Control in the ICT Sector Kalpana Tyagi 2019-06-21 This book addresses the question of how competition authorities assess mergers in the Information Communication Technology (ICT) sector so as to promote competition in innovation. A closer look at the question reveals that it is far more complex and difficult to answer for the ICT, telecommunications and multi-sided platform (MSP) economy than for more traditional sectors of the economy. This has led many scholars to re-think and question whether the current merger control framework is suitable for the ICT sector, which is often also referred to as the new economy. The book pursues an interdisciplinary approach combining insights from law, economics and corporate strategy. Further, it has a comparative dimension, as it discusses the practices of the US, the EU and, wherever relevant, of other competition authorities from around the globe. Considering that the research was conducted in the EU, the practices of the European Commission remain a key aspect of the content.Considering its normative dimension, the book concentrates on the substantive aspects of merger control. To facilitate a better understanding of the most important points, the book also offers a brief overview of the procedural aspects of merger control in the EU, the US and the UK, and discusses recent amendments to Austrian and German law regarding the notification threshold. Given its scope, the book offers an invaluable guide for competition law scholars, practitioners in the field, and competition authorities worldwide.
European Competition Law Lennart Ritter 2005-01-01 No branch of European law has been as subject to expansion and change as competition law. Between the enormous forces of globalisation, technology, and EU enlargement, the Commission and national competition authorities have been compelled to keep rethinking their practices and procedures and issuing new regulations. Now, in the wake of its highly acclaimed predecessors, the new Third Edition of European Competition Law offers the practitioner everything required to act in accordance with the latest developments in the field. Along with the thorough guide to continuing practice that its readers have come to expect, European Competition Law in its Third Edition fully covers such areas as the following: the Commission's new assessment of distribution practices and vertical restraints, in particular the block exemptions granted by Regulations 2790/1999 and 1400/2002; procedure before national competition authorities and national courts for enforcement of European rules under Regulation 1/2003; the new Merger Control Regulation in force as of 1 May 2004; the new Transfer of Technology Regulation; and, the increased fines for hard-core cartel practices or abuse of dominant market position. The Third Edition is remarkable in that it actually previews the substantive and procedural rules that will be coming into effect during 2004 and subsequent years. And, like prior editions, the work has no peer in its coverage of past administrative practice and the case law of the Court of Justice. All in all, European Competition Law, Third Edition, will be of immeasurable value to practitioners who need to keep informed about how EC competition laws are applied, so they can continue to render practical, meaningful advice to firms whose agreements, transactions and conduct in the marketplace are governed by competition rules.
Competition Law and Policy in the EC and UK Barry Rodger 2008-10-03 Competition law, at both the EC and UK levels, plays an important and ever-increasing role in regulating the conduct of businesses. Based on the premise that open and fair competition is good for both consumers and businesses, competition law prevents businesses from entering into anti-competitive agreements and from abusing their dominant market position. Competition Law and Policy in the EC and UK looks at how competition law affects business, including: co-ordinated actions; pricing behaviour; take-overs and mergers; and state subsidies. It provides a clear guide to and outline of the general policies behind, and the main provisions of EC and UK competition law. Information is presented within a structured framework, complete with a glossary of useful terminology. This fourth edition has been revised and updated to take into account developments since publication of the previous edition, including expanded coverage of the regulation of cartels, the development of private enforcement, the consideration of IP issues in Microsoft, and extended discussion of UK competition Law.
Competition Law Eugène Buttigieg 2009-01-01 Although it is commonly assumed that consumers benefit from the application of competition law, this is not necessarily always the case. Economic efficiency is paramount; thus, competition law in Europe and antitrust law in the United States are designed primarily to protect business competitors (and in Europe to promote market integration), and it is only incidentally that such law may also serve to protect consumers. That is the essential starting point of this penetrating critique. The author explores the extent to which US antitrust law and EC competition law adequately safeguard consumer interests. Specifically, he shows how the two jurisdictions have gone about evaluating collusive practices, abusive conduct by dominant firms and merger activity, and how the policies thus formed have impacted upon the promotion of consumer interests. He argues that unless consumer interests are directly and specifically addressed in the assessment process, maximization of consumer welfare is not sufficiently achieved. Using rigorous analysis he develops legal arguments that can accomplish such goals as the following: replace the economic theory of 'consumer welfare' with a principle of consumer well-being; build consumer benefits into specific areas of competition policy; assess competition cases so that income distribution effects are more beneficial to consumers; and control mergers in such a way that efficiencies are passed directly to consumers. The author argues that, in the last analysis, the promotion of consumer well-being should be the sole or at least the primary goal of any antitrust regime. Lawyers and scholars interested in the application and development and reform of competition law and policy will welcome this book. They will find not only a fresh approach to interpretation and practice in their field - comparing and contrasting two major systems of competition law - but also an extremely lucid analysis of the various economic arguments used to highlight the consumer welfare enhancing or welfare reducing effects of business practices.
A comparative analysis of EU and US transnational mergers regulation Dimitris Liakopoulos 2017-12-22 Document from the year 2017 in the subject Law - Civil / Private / Trade / Anti Trust Law / Business Law, grade: A, , language: English, abstract: The major problem associated with the regulation of transnational mergers, which affect several national markets, is the allocation of jurisdiction. Each country concerned may wish to exert jurisdiction and apply its national competition law to regulate the anti-competitive effects a merger may have in its territory. However, this approach may lead to risks of inconsistent decisions regarding the legality of mergers. Indeed, the national competition laws applied by the regulating authorities may diverge in several aspects, which raise the likelihood of inconsistency. The authors advocates the creation of an international merger control framework (IMCF) for the regulation of transnational mergers. This framework will rest on an informal and a formal pillar. The former includes non-legally binding competition principles. Consistency of these principles with the concepts of legitimacy and efficiency, as well as the presence of peer reviews and assistance programmes, should lower the risk of non-implementation. The formal pillar includes bilateral cooperation agreements which apply to merger affecting the countries which have concluded the agreements. As essential pre-condition for the application of bilateral agreements, the level of cooperation achieved by such agreements should be at least equal to that ensured by the informal pillar. The last part of the study addresses and examines the long and complex processes in merger and acquisition (M&A) transactions. M&A arbitration faces certain difficulties during the transaction. Such difficulties the author seeks to underline. Two main problems of arbitration in M&A transactions, particullarly, have been covered. Firstly, the problem of consent in consolidation of parallel proceedings during M&A transactions, and, secondly parties' consent that validate arbitration agreements/clauses in “assignment” or “succession” after M&A transactions have been completed. The author also tries to clarify the content of consent of parties to a transaction. Finally, a criticism of parallel proceedings is enhanced.
Antitrust Developments in Europe, 2002 Romano Subiotto 2003-01-01 Comprehensive commentary on the past year's major developments in EC and national antitrust law. Topics covered include: Vertical restraints; Horizontal agreements; Abuse of market power; Mergers and acquisitions; Joint ventures; State aid; Policy and procedures.
Globalization and the Limits of National Merger Control Laws Joseph Wilson 2003-02-01 "The proliferation of merger control laws, in the absence of a mechanism to coordinate the transnational merger review, places an unnecessary burden on merging parties, and runs the risk of divergent outcomes, which at times cause friction among nation-states." --
Structure and Effects in EU Competition Law Basedow 2011-01-01 During the last decade the European Commission has progressively adopted what is called a and□more economic approachand□ toward competition policy. This approach, which draws on U.S. antitrust policy, puts greater emphasis on possible welfare effects of business practices and is less concerned with competitive market structures. Under this school of thought concentration cannot be said to impede effective competition to the extent that efficiency gains outweigh market distortions. In order to stimulate the debate on this basic reorientation, in January 2009 the Max Planck Institute for Comparative and International Private Law at Hamburg convened economists, legal scholars, and practitioners for an exchange of views on these and□newand□ methodological foundations of EU competition policy and competition law. Two especially controversial elements were chosen for in-depth discussion: the prohibition of abuses of dominant positions and the review of State aid. This book reproduces fourteen papers from this conference, representing the considered views of prominent European lawyers, economists, academics, policymakers, and enforcement officials in the competition field on matters such as: the objectives of EU competition law; the current enforcement guidelines of the EU Commission regarding Article 102 TFEU and? measuring market power; abusive low pricing strategies; the economics of competition law enforcemennt; recent developments in EU State aid law; economic justifications for State aid. A critical assessment of the Commissionand□s State aid action plan by the German Monopolies Commission is appended in English. Applying law and economics theory to competition law, this book shows that the and□more economicand□ approach is exerting a considerable impact on various sectors of competition law. The authors clearly demonstrate the progress that can be made when lawyers and economists take notice of and respect the characteristics of each otherand□s discipline. Moreover, the authors show how new insights of economic theory may be integrated into the relevant legal analysis. The book will therefore be appreciated by academics, practitioners, and officials representing both fields.
The Historical Foundations of EU Competition Law Kiran Klaus Patel 2013-07-11 Shedding new light on the foundations of European competition law, this volume is a legal and historical study of the emerging law and its evolution through the 1980s. It retraces the development and critical junctures of competition law not only at the level of the European Economic Community but also at the level of major Member States of the EEC. Intensely researched and rich with insights, the chapters in this volume reflect a close collaboration among an expert group of lawyers and historians and capitalize on previously unavailable source materials. The book examines several key themes including: the influence of national and international competition law on the development of EEC competition law; the drafting of the regulations that lead to the development of modern EU competition law; the role of the European Court of Justice in establishing the protection of competition as a central pillar of the Common Market; the internal dynamics, ideologies and tensions within the Competition Directorate General (DG IV) of the European Commission; and the role of industrial policy in European integration. Combining legal analysis with a meticulous excavation of historical evidence to reveal the forces driving key actors and the interactions among them, this volume rediscovers a past largely forgotten but essential to understanding the genesis of competition law in Europe, its role in Europe's construction, its hybrid institutional traits, and its often unique substance.
The European Commission's Jurisdiction to Scrutinise Mergers Morten Broberg 1998-04-15 No major business or law firm can afford to disregard the European Commission's power in the control of mergers. Since the Council of Ministers adopted the EC Merger Regulation in 1989, The power of the European Commission has increased steadily. The scope of the Merger Regulation now occupies a central role in many mergers taking place both inside and outside the European Community. To come within the scope of merger regulation and thus within the Commission's jurisdiction, a merger must possess a `community dimension'. Despite the careful definition of this term in the Merger Regulation itself, The concept has created problems in many cases. The European Commission's Jurisdiction to Scrutinise Mergers offers a comprehensive, up-to-date analysis of all aspects of the community dimension concept. The most thorough examination of the Commission's jurisdiction to examine mergers under the EC Merger Regulation, The European Commission's Jurisdiction to Scrutinise Mergers serves as a valuable guide for businesses, their legal advisors, and competition law enforcers in both the Commission And The Member States.
An Introduction to EU Competition Law Moritz Lorenz 2013-04-25 Succinct and concise, covering all key substantive and procedural aspects of the subject, this textbook is required reading for students of EU competition law. The author's clarity of expression and wealth of worked examples, makes this sometimes complex subject accessible. This refreshing uncluttered approach guarantees the students' understanding and engagement.
EC Merger Control and the Approximation of Competition Law in Bulgaria Ekaterina Mateeva 2002
EC Competition Law Reform Barry E. Hawk 2002-10-01 1 Hardcover Volume.This volume includes selected chapters from the annual proceedings of the Fordham Corporate Law Institute. The general subject is the reform of EC competition law enforcement. This has been the subject of many Fordham conferences over the years. Indeed, EC Commission officials have stated that the modern reform proposals presently being considered had their roots at Fordham.The present volume includes seminal articles and critiques of the EC competition law regime as well as very recent discussions of the Commission's proposal for reform. Because much of the literature on EC competition law reform is scattered, the present volume should be useful in including in one place a broad selection of articles and roundtable discussions.The chapters cover not only institutional and jurisdictional issues like decentralization and sharing of powers between the Commission and the EC member states, but also substantive issues like the scope of Article 81 and the rule(s) of reason. These and other issues are examined from both an analytical and historical perspective which greatly facilitates understanding of the future implications of the reform measures presently being debated.In sum, the chapters are not merely of historical interest: problems and questions of ongoing importance are discussed.
Critically assess the role of efficiencies in merger assessment Veronika Minkova 2011-09-28 Essay from the year 2011 in the subject Law - Civil / Private / Trade / Anti Trust Law / Business Law, grade: 1,3, University of Reading, course: European Competition Law, language: English, abstract: The first section of the present essay discusses historically the European Commission’s approach towards efficiencies. The second section elaborates on the choice of welfare standards and explains the European approach of adopting the consumer welfare standard. The third section outlines types of efficiencies according to the economic literature. The fourth section discusses the three cumulative conditions of the European Commission in order to consider efficiency claims. The next section reveals the Commission decisional practice in cases of efficiency claims and analyses its development. In the last chapter more attention is paid to theory and practice of efficiencies in cases of non-horizontal mergers.
Federal Antitrust and EC Competition Law Analysis Femi Alese 2016-12-14 This book provides the reader with a comprehensive analysis of US Federal Antitrust and EC Competition Law. It is encyclopaedic in coverage: examining every constituent element of the law and landmark decisions from the perspectives of economics and policy goals, explaining their implications for commercial operations and advocating policy reforms where necessary.
An Introduction to EU Competition Law Moritz Lorenz 2013-04-25 Succinct and concise, this textbook covers all the procedural and substantive aspects of EU competition law. It explores primary and secondary law through the prism of ECJ case law. Abuse of a dominant position and merger control are discussed and a separate chapter on cartels ensures the student receives the broadest possible perspective on the subject. In addition, the book's consistent structure aids understanding: section summaries underline key principles, questions reinforce learning and essay discussion topics encourage further exploration. By setting out the economic principles which underpin the subject, the author allows the student to engage with the complexity of competition law with confidence. Integrated examples and an uncluttered writing style make this required reading for all students of the subject.
EC Merger Control Regulation Mihalis Kekelekis 2006-01-01 Here for the first time is an in-depth analysis of the rights of notifying parties and third parties in merger proceedings, as reflected in the administrative practice of the Commission and the case law of the Community courts.
EC Competition Law Giorgio Monti 2007-08-06 Monti explores the development of EC competition law through an interdisciplinary approach, focusing on the political and economic considerations that affect the way the rules are interpreted. Written with competition law students in mind, it should also be of interest to undergraduate and postgraduate students of EU politics and economics.
European Competition Policy Peter Montagnon 1990 Nowhere is the tension between Brussels and individual member states more evident than in the area of competition policy. If the 1992 single-market programme is to become a reality, it is essential to have in force a strong and coherent European policy on competition; for if member states are allowed to pursue their own narrow economic and industrial interests, the European Community will be little more than a loose economic federation.
Safeguarding Companies' Rights in Competition and Anti-dumping/anti-subsidies Proceedings Themistoklis K. Giannakopoulos 2011-01-01 Focusing on the rules safeguarding procedural due process in the administrative procedures of the Commission, this fully updated edition of a widely used handbook covers the four principal fields that entail enforcement of substantive competition rules: antitrust, merger, anti-dumping/antisubsidies, and State aid. Among the many practical issues raised are the following: the right of directly involved parties to bring an action before the European Courts in merger, anti-dumping/anti-subsidies, and State-aid cases; the rights of complainants in antitrust cases; the rights and obligations of beneficiaries in State-aid cases; the extent to which the right to confidential communication between lawyer and client in thesecases is recognised by the European Commission and the European Courts; the right to silence to avoid self-incrimination in antitrust cases; the right to respect for confidentiality and the right to be heard during the preliminary factfinding procedure of the Commission; the obligations of an undertaking during the fact-finding procedure of the Commission; the right of access to the Commission's file; the right to a fair hearing of all the parties concerned by the Commission proceedings; and the applicability of Article 6 of the European Convention of Human Rights (ECHR) to EU antitrust procedures. Three tables consolidate briefly and comparatively the rights and the obligations of the private parties in the four proceedings, as well as their right to bring an action before the European Courts. These tables give the reader the opportunity to easily check out what is the situation in the four proceedings regarding a specific right or obligation. The author's analysis draws on all the relevant judgments of the European Courts, and the book comes with a wealth of reference material, including detailed footnotes, lists of legislation and cases in both chronological and alphabetical order, and an extensive bibliography.
Critically analyse the decision of the European Court of First Instance in Airtours plc v EC Commission Karsten Keilhack 2004-03-15 Essay from the year 2003 in the subject Law - Civil / Private / Trade / Anti Trust Law / Business Law, grade: 68%, Cardiff University (Großbritannien; Law School), course: Competition Law, language: English, abstract: The aim of this paper is to present and to clarify the current approach of EC Competition Law to merger cases, in particular with regard to the problem of collective dominance. I will outline the problems arising from collective dominance in the context with the significant case Airtours plc v. EC Commission, recently dealt with by the European Court of First Instance. Firstly, I will give briefly the relevant facts of the Airtours case (I.). Secondly I will analyse the case with regard to the criticism made by legal experts (II.) and then give an ove rview on which measures are proposed in the future to eliminate the errors made (III., IV.). Lastly, I will interpret these measures and give an answer to the question whether or not these measures are sufficient to solve the present problems in context with

the current EC Merger Regulation (V.).
Merger Control in the EEC Advokaterne Bredgade 3 1988
European Merger Control Catalin Stefan Rusu 2010-01-01 Twenty years of experience have inevitably brought to light challenges and tensions in the enforcement of the European merger control system. Some of these challenges have been faced, some have been solved and some remain latent. This very valuable study starts from the proposition that the EU has never fully acknowledged those fundamental challenges which relate to the rationale behind merger control in Europe. The author shows how the Commission's focus on adapting the rules of merger control to the economic realities of the future business environment, although designed with a view to facilitating European integration, has compromised attainment of legal certainty, transparency and welfare enhancement. In its detailed evaluation of the 'future market structure prediction process' embedded in European merger control policy, this book approaches two rock-bottom, far-reaching questions: In what ways does merger control promote consumer and societal welfare? Is the Commission able to correctly predict the outcome of any given concentration transaction? These considerations take the reader through a deep and searching analysis that calls into question the very credibility and transparency of the system, leading to alternatives which promise a new clarity of purpose and procedure. The author describes how these recommendations can be integrated into the functioning framework of the European project. Taken fully into account along the way is a wide spectrum of relevant source material, including the following: applicable articles and chapters of the founding and subsequent European Treaties; secondary European legislation concerning competition and merger activity; domestic competition laws; guidelines, notices and action plans; competition law reviews, statements of intentions; draft legislative attempts; speeches on the enactment and purpose of merger control; Member States' views concerning European merger control as expressed during Council negotiations; officially available concentration-related statistics; and a wide-ranging literature review covering both the legal and economic sides of merger control. Throughout, the author substantiates theoretical assertions with case law examples, clearly exposing doctrines arising from such cases as Continental Can, Phillip Morris/Rothmans and the Airtours, Schneider and Tetra Laval trilogy. A unique feature of the analysis draws on the author's personal experience while working for a Brussels competition law firm. This book is a remarkable compound of academic guide to the roots and rationales of the European Merger Control System, practical guide to the day-to-day intricacies of merger control enforcement, and 'raw' guide for decision makers and merger control law enforcers. It will be of immense value in all three contexts.
Competition Law Barry J. Rodger 2001-10-17 Competition law, at both the EC and UK levels, plays an important and ever increasing role in regulating the conduct of businesses. Competition law can affect business contracts, take-overs and mergers, co-ordinated actions, pricing behaviour and, also, S
Economics and the Interpretation and Application of U.S. and E.U. Antitrust Law Richard S. Markovits 2014-05-22 This volume (1) defines the specific-anticompetitive-intent, lessening-competition, distorting-competition, and exploitative-abuse tests of illegality promulgated by U.S. and/or E.U. antitrust law, (2) compares the efficiency defenses promulgated by U.S. and E.U. antitrust law, (3) compares the conduct-coverage of the various U.S. and E.U. antitrust laws, (4) defines price competition and quality-or-variety-increasing-investment (QV-investment) competition and explains why they should be analyzed separately, (5) defines the components of individualized-pricing and across-the-board-pricing sellers’ price minus marginal cost gaps and analyses each’s determinants, (6) defines the determinants of the intensity of QV-investment competition and explains how they determine that intensity, (7) demonstrates that definitions of both classical and antitrust markets are inevitably arbitrary, not just at their periphery but comprehensively, (8) criticizes the various protocols for market definition recommended/used by scholars, the U.S. antitrust agencies, the European Commission, and U.S. and E.U. courts, (9) explains that a firm’s economic (market) power or dominance depends on its power over both price and QV investment and demonstrates that, even if markets could be defined non-arbitrarily, a firm’s economic power could not be predicted from its market share, (10) articulates a definition of “oligopolistic conduct” that some economists have implicitly used—conduct whose perpetrator-perceived ex ante profitability depended critically on the perpetrator’s belief that its rivals’ responses would be affected by their belief that it could react to their responses, distinguishes two types of such conduct—contrived and natural—by whether it entails anticompetitive threats and/or offers, explains why this distinction is critical under U.S. but not E.U. antitrust law, analyzes the profitability of each kind of oligopolistic conduct, examines these analyses’ implications for each’s antitrust legality, and criticizes related U.S. and E.U. case-law and doctrine and scholarly positions (e.g., on the evidence that establishes the illegal oligopolistic character of pricing), and (11) executes parallel analyses of predatory conduct--e.g., criticizes various arguments for the inevitable unprofitability of predatory pricing, the various tests that economists/U.S. courts advocate using/use to determine whether pricing is predatory, and two analyses by economists of the conditions under which QV investment and systems rivalry are predatory and examines the conditions under which production-process research, plant-modernization, and long-term full-requirements contracts are predatory.
The Optimal Enforcement of EC Antitrust Law:A Study in Law and Economics Wouter Wils 2002-02-13 This text provides clear answers to the major questions concerning the modernization of EC antitrust enforcement such as: should a notification system be maintained, or should the antitrust rules be enforced exclusively through deterrence?; and at what levels should fines be set?
Mergers Under EEC Competition Law Timothy G. Portwood 1994 This book examines the Commission's approach to joint ventures and Community legislation regulating joint ventures, mergers and concentration in the EC. It discusses recent Mergers Regulation and analyzes the practical application of the laws. Much of the book is taken up with procedural aspects, looking at ways in which the Commission's practice affects the ability of firms to undertake joint activity. This book should be of interest to both legal practitioners and in-house counsel, and to academics and students in this field. Portwood's other publications include Law of International Trade (1990) and a number of case-notes and articles in the Journal of International Banking Law.
Competition Law and Consumer Protection Katalin Judit Cseres 2005-01-01 The assumption that competition law and consumer protection are mutually reinforcing is rarely challenged. The theory seems uncontroversial. However, because a positive interaction between the two is presumed to be self-evident, the frequent conflicts that do in fact arise are often dealt with on an ad hoc basis, with no overarching legal authority. There is a clear need for a detailed and coherent understanding of exactly where the complements and tensions between the two policy areas exist. Dr Cseres in-depth analysis provides that understanding. Proceeding from the dual perspective of law and economics that is, of justice, fairness, and reasonableness on the one hand, and of efficiency of the other she fully considers such underlying issues as the following: the role of competition law and consumer law in a free market economy;the notion of consumer welfare;the effect of the modernisation of EC competition law for consumers;economics theories of information, bounded rationality, and transaction costs;the special significance of vertical agreements and merger control; and,how consumers are affected by information asymmetries. The ultimate focus of the book is on current and emerging EC law, in which a rapprochement between the two areas seems to be under way. Dr. Cseres provides a knowledgeable guide to the various strands of theory, policy, and jurisprudence that (she shows) ought to be taken into account in the process, including schools of thought and law and policy experience in both Europe and the United States. A special chapter on Hungary, where post-1989 law and practice reveal a fresh and distinctly forward-looking understanding of the matter, is one of the book's most extraordinary features. Competition Law and Consumer Protection stands alone as a committed contribution to bridging a gap in legal knowledge the significance of which grows daily. It will be of immeasurable value to a wide range of professionals from academics and researchers to officials, policymakers, and practitioners in competition law, consumer protection advocacy, economic theory and planning, business administration, and various pertinent government authorities.
The Shaping of EU Competition Law Pablo Ibez Colomo 2018-07-12 A ground breaking study of how the interaction between the European Commission and the EU Courts has shaped EU competition law.
Does EU Merger Control Discriminate Against Small Market Companies? Mika Oinonen 2010-01-01 Although the question posed by the title of this book has generated considerable debate, the essential issue remains open and largely blurred. While some believe that there is no so-called 'small market problem', others discern discrimination against small market companies (i.e., companies with a strong position in their home markets but a modest position in the European and global markets) and a consequent need for changes in competition law. The author of this enormously helpful work here sets the stage for meaningful discussion by analysing the EC Merger Regulation's objectives, economic foundations, and application practice to present a reasoned view of the issues that can be considered relevant for such a discussion. Considering their effect on the 'small market problem', the author scrutinizes such factors as the following: the Commission's methodology for delineating relevant markets in merger assessments; unnecessary prohibition caused by overestimation of the market power of small market mergers; erroneous approval of cases that should actually be prohibited; impact of the so-called 'Harvard' and 'Chicago' schools of competition theory and their key policy implications; process-related alternative views of competition and new synthesizing approaches; relevant criteria for a proper analysis of market power; concentration measures and market shares; barriers to entry; price and profitability analyses; and product definition v. geographic definition of markets. In a final chapter, the author presents some tentative conclusions, normative in nature, concerning the problem and the relevant issues relating to it. As the first in-depth analysis of the issues that are actually involved - with its particular diagnosis of the assessment of market power in considering the relevant issues for the problem - this study brings into salience the terms of the debate on the 'problem', and thus takes a giant step forward towards defining what needs to be done. Competition lawyers, policymakers, and academics in Europe and elsewhere will find the discussion of great value.
Remedies in Network Industries Damien Geradin 2004 Over the last decade, the European Union has undertaken major market-opening reforms in the area of network industries. The liberalization process has now been completed in the air transport and electronic communications sectors and has achieved considerable progress in other network industries, such as postal services, energy (electricity and gas), and rail transport. Creating competition in network industries is not an easy matter, however. Because they benefit from certain advantages such as a large initial market share and control of essential facilities, incumbents typically retain substantial market power in a number of relevant markets and may even use their position to prevent others from engineering such markets. Controlling market power is thus one of a number of key concerns in network industries. It can be achieved in two main ways; either through the adoption and implementation of sector-specific rules or through the application of competition rules. There are advantages and disadvantages to both options, but it is a combination of the two that generally prevents incumbents from abusing their market power in liberalized markets. Competition law and sector-specific regulation provide for the application of remedies on incumbents or other operators holding significant market power. Such remedies are either structural or a behavioural. In some occasions they will apply ex ante, while in others ex post. This book comprises a collection of outstanding essays dealing with the complex legal and economic issues raised by remedies in network industries. While some of these essays analyse remedies from a generic point of view, others focus on specific remedies applied specifically in particular sectors. The sectors covered in this volume include electronic communications, postal services, energy (electricity and gas), and air transport. The final paper also presents a discussion of the United States approach to remedies in network industries. The essays comprised in this book have been written by leading academics (lawyers and economists), as well as private practitioners.